



Redevelopment: Where are We, and Where are We Going?

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Overview of Topics Covered

- **Dissolution of Redevelopment Agencies**
- **Handling of Contracts and Properties**
- **Contaminated Properties and Use of Polanco Redevelopment Act**



Dissolution of RDAs

- **As a result of AB 26 and a ruling by the California Supreme Court, all RDAs in CA dissolved on February 1, 2012**
- **Upon dissolution, designated Successor Agency assumed former RDA's non-housing assets, rights, obligations and statutory powers**
- **Designated successor housing entity has assumed, or will assume, former RDA's housing assets and responsibilities**



Major Players in Dissolution Phase

- **Successor Agency (SA):** administers winding-down process for non-housing assets of former RDA; prepares 6-month ROPS and administrative budget
- **Successor Housing Entity:** owns housing assets and carries out housing responsibilities of former RDA
- **Oversight Board (OB):** oversees, directs certain actions of SA
- **County Auditor-Controller (CA-C):** may object to each ROPS; distributes property taxes to SA and to local taxing entities
- **State Department of Finance:** reviews decisions of OB
- **State Controller:** reviews actions of CA-C; implements claw-back provision as to prior asset transfers



Examples of Prohibited Activities

- **Cannot exercise discretion to enter into new contracts or amend existing contracts**
- **Cannot make payments unless shown on payment schedules (EOPS, six-month ROPS)**
- **Cannot incur new debt or other financial obligations**
- **Cannot approve new programs, projects, or expenditures**
- **Cannot create new redevelopment project areas**



Examples of Affirmative Duties

- **Preserve assets, minimize liabilities, and take all reasonable measures to avoid triggering events of default**
- **Make payments due for enforceable obligations, as shown on EOPS and approved, certified ROPS**
- **Remit unencumbered balance of low and moderate income housing funds to local county auditor-controller**
- **Effectuate transfer of housing functions and assets to designated successor housing entity**
- **Expediently wind down affairs of former RDA**
- **Continue to oversee development of properties under contract**



AB 1484 – Enacted June 27, 2012

- **Allows successor agencies to designate more properties for “public use” and as “housing assets” for retention by city and successor housing entity.**
- **Lays out a process for disposition of properties and expenditure of non-housing bond proceeds.**
 - Must provide lists of assets to DOF and complete a two-part due diligence accounting review
 - Must obtain Finding of Completion from DOF; but successor housing entity can expend bond proceeds without this finding
 - Must prepare Long-Range Asset Management Plan, identifying assets to be sold to private parties, or transferred to city for redevelopment project
 - Dispositions will probably begin in summer 2013



Key Areas of Dispute and Ambiguity

- **Scope of authority of SA and OB as to existing contracts**
- **State's purported invalidation of most city-RDA agreements**
- **State's purported ability to reverse prior asset transfers**
- **Transfer of ownership of housing assets from SA to successor housing entity; issues with title companies**



What about the Polanco Redevelopment Act?

- **It's fighting for life, but it's not dead yet!**
- **Under AB 26, Successor Agencies & Housing Successor Agency inherited**
 - “all authority, rights, powers, duties, and obligations previously vested with the former redevelopment agencies”
 - Cal. Health & Safety Code § 34173(b).
- **But under AB 1484, language is much more limiting:**
 - “Any existing cleanup plans and liability limits authorized under the Polanco Redevelopment Act . . . Shall be transferred to the successor agency and may be transferred to the successor housing entity at that entity's request.”
 - Cal. Health & Safety Code § 34173(f)



AB 1484

- **But, there is another option:**
 - Cal. Health & Safety Code § 34173(i) says:
 - “At the request of the city [or] county . . . all land use related plans and functions of the former redevelopment agency are hereby transferred to the city [or] county . . . that [created the] redevelopment agency; provided, however, that the city [or] county . . . shall not create a new project area [or add or expand a project area, or take action that would increase any debt].”
 - Use of this section is unclear; need confirmation from regulatory agencies that they agree.



When can SAs/SHAs use these powers?

- **For enforceable obligations**
- **Possibly to preserve assets and minimize liabilities**
- **Balance with prohibition on executing new contracts (including contract for site remediation; § 34163(b)).**
- **Successor housing entities should also be able to use**



Environmental Enforceable Obligations

- **Agreements executed prior to the enactment of AB 26.**
- **Obligations imposed by state law. (§ 34167(d)(3))**
 - Open cases with a regulatory agency.
 - Ownership of a property that possibly requires investigation or remediation.
- **What about properties the agency owned that had environmental impacts?**
 - Environmental hold-back or indemnity/cost-sharing from seller.
 - Preservation of these funds/agreements to “preserve assets and minimize liabilities.”
 - May be able to perform remediation for public use properties, and possibly for sale if retained funds.

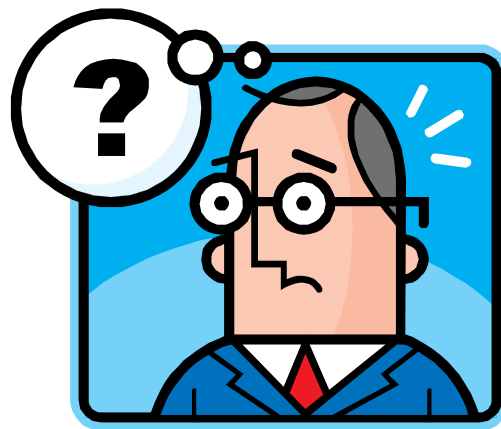


What does the future hold for brownfield remediation?

- **Less public sector capacity**
- **More private sector control?**
- **Less municipal direction?**
- **Possibly more state and federal influence through grants.**
- **Fewer marginal projects?**



Questions and Comments





Thank you.

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